

**Caridis, Alyssa**

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**From:** Perito, Andrew <andrew.perito@weil.com>  
**Sent:** Friday, March 20, 2015 9:26 AM  
**To:** Randall Garteiser; AudibleMagic-BlueSpike; Reines, Edward; Walter Lackey; Eric Findlay  
**Cc:** <bluespike@ghiplaw.com>  
**Subject:** RE: Getting on the same page with Rebuttal Deadlines  
**Attachments:** DRAFT Proposed\_Order\_Joint\_Motion\_to\_Modify\_Scheduling\_Order 2015-03-20.docx;  
DRAFT Joint\_Motion\_to\_Modify\_the\_Scheduling\_Order 2015-03-20.docx

Hi Randall,

Further to our call, attached are a draft joint motion and proposed order setting forth proposed amended dates. If everyone could please confirm that the parties are in agreement, we can then jointly send to Special Master McGovern so that he can confirm these dates are acceptable to the Court and, if the Court so requires, we can adjust the proposed dates.

Best,  
Andrew



**Andrew L. Perito**

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**From:** Randall Garteiser [mailto:rgarteiser@ghiplaw.com]  
**Sent:** Wednesday, March 18, 2015 1:27 PM  
**To:** AudibleMagic-BlueSpike; Perito, Andrew; Reines, Edward; Walter Lackey; efindlay@findlaycraft.com  
**Cc:** <bluespike@ghiplaw.com>  
**Subject:** Re: Getting on the same page with Rebuttal Deadlines

Walter and Eric,  
My apologies for leaving you off this previous email.

Do the Defendants have any update on Blue Spike's request to set the deadline to exchange rebuttal reports on April 21, 2015?

Please advise.

**Randall Garteiser** / Partner  
888.908.4400 x100 / [rgarteiser@ghiplaw.com](mailto:rgarteiser@ghiplaw.com)  
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On Mar 16, 2015, at 11:11 PM, Randall Garteiser <[rgarteiser@ghiplaw.com](mailto:rgarteiser@ghiplaw.com)> wrote:

Gabe,

Any thoughts on my email below? I'm not even sure if the parties have a disagreement.

Blue Spike requests April 21 be the deadline due to multiple scheduling conflicts. We would like to file a stipulation to this effect. Please advise if Audible Magic and last.fm will oppose or agree.

Be well,  
Randall

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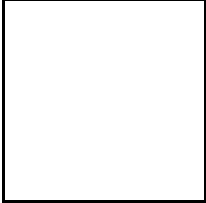
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On Mar 13, 2015, at 5:10 PM, Randall Garteiser <[rgarteiser@ghiplaw.com](mailto:rgarteiser@ghiplaw.com)> wrote:

Gabe,

Just want to confirm that Audible Magic views the deadline for the rebuttal reports to be April 10, instead of the later April 23 date Blue Spike had previously advocated for.

Also, please advise your understanding of the deadline to file letter briefs for Summary Judgment. Is that April 23?



**Randall Garteiser** / Partner  
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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

BLUE SPIKE, LLC,	§	
	§	
Plaintiff,	§	Civil Action No. 6:12-CV-499
	§	
vs.	§	
	§	(LEAD CASE)
TEXAS INSTRUMENTS, INC. et al.,	§	
	§	JURY TRIAL DEMANDED
	§	
Defendants.	§	
	§	

**ORDER GRANTING JOINT MOTION TO MODIFY THE SCHEDULING ORDER**

On this day came for consideration Plaintiff Blue Spike, LLC's and Defendants Audible Magic, Corp. and Last.fm Ltd.'s (herein after the "Parties") Joint Motion to Modify the Scheduling Order. The Court, having reviewed the Motion, finds that the Motion should be, and hereby is, GRANTED.

It is, therefore, ORDERED, ADJUDGED and DECREED that Parties' Joint Motion to Modify the Scheduling Order is GRANTED, and the Scheduling Order (Supplier/Independent Defendants) (Dkt. No. 1332) as follows:

PRETRIAL EVENT	CURRENT DEADLINE	PROPOSED DEADLINE
Deadline to make final election of prior art (¶ 5)	December 15, 2014	January 15, 2015
Deadline to designate expert witnesses and reports on issues for which the party bears the burden of proof(¶ 5)	January 15, 2015	March 2, 2015
Deadline to designate expert witnesses and reports on issues for which the party does not bear the burden of proof (¶ 6)	February 16, 2015	April 21, 2015
Deadline to file letter briefs	March 6, 2015	April 27, 2015

regarding dispositive motions (¶ 10)		
Discovery deadline for expert depositions	April 21, 2015	May 22, 2015

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

BLUE SPIKE, LLC,	§	
Plaintiff,	§	
	§	Civil Action No. 6:12-CV-499
vs.	§	
	§	(LEAD CASE)
TEXAS INSTRUMENTS, INC. et al.,	§	
	§	JURY TRIAL DEMANDED
	§	
Defendants.	§	
	§	

**JOINT MOTION TO MODIFY THE SCHEDULING ORDER**

Pursuant to the instructions of Special Master McGovern during a joint telephone conference on December 5, 2014 and subsequent communication on March 20, 2015, Plaintiff Blue Spike, LLC and Defendants Audible Magic, Corp. and Last.fm Ltd. (herein after the “Parties”) hereby move the Court to modify the supplier scheduling order (Dkt. No. 1332) and the subsequent order granting Plaintiff’s Motion to Modify the Scheduling Order (Dkt. No. 1833) as follows:

PRETRIAL EVENT	CURRENT DEADLINE	PROPOSED DEADLINE
Deadline to make final election of prior art (¶ 5)	December 15, 2014	January 15, 2015
Deadline to designate expert witnesses and reports on issues for which the party bears the burden of proof(¶ 5)	January 15, 2015	March 2, 2015
Deadline to designate expert witnesses and reports on issues for which the party does not bear the burden of proof (¶ 6)	February 16, 2015	April 21, 2015
Deadline to file letter briefs regarding dispositive motions (¶ 10)	March 6, 2015	April 27, 2015

Discovery deadline for expert depositions	April 21, 2015	May 22, 2015
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Dated: XXXXX, 2015

Respectfully submitted,

/s/ Randall T. Garteiser

Randall T. Garteiser

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Ltd., Myxer, Inc., Qlipso, Inc., Qlipso Media  
Networks, Ltd., Yap.tv, Inc., GoMiso, Inc., iMesh,  
Inc., Metacafe, Inc., Boodabee Technologies, Inc.,  
Zedge Holdings, Inc., Brightcove Inc., Coincident.TV,  
Inc., Accedo Broadband North America, Inc., Accedo  
Broadband AB, MediaFire, LLC, WiOffer LLC, and  
Harmonix Music Systems, Inc.*

/s/ Edward R. Reines



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*Counsel for Defendants Last.fm Ltd. and CBS  
Interactive Inc.*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that counsel of record who are deemed to have consented to electronic service are being served with a copy of this **JOINT MOTION TO MODIFY THE SCHEDULING ORDER**, *via* the Court's CM/ECF system per Local Rule CV-5(a)(3) on this the **XX**th day of **XXXX**, 2015.

/s/ Eric H. Findlay  
Eric H. Findlay